

## REMARKS

First, applicants wish to thank Examiner Balls for the Supplemental Office Action dated August 30, 2006. As discussed with the Examiner and Supervisory Examiner McKenzie, the original Final Action was somewhat confusing. For example, the Disposition of the Claims in the Office Action Summary, did not entirely match the Conclusions at the end of the Action. In response, Examiner Balls kindly sent out a Supplemental Action, which clarified the issues.

At Page 2 of the Action, the Examiner correctly notes that the present application is a continuation of PCT/CA03/01800, filed November 19, 2003. In applicants submission of April 5, 2006, applicants identified a "continuing, divisional or counterpart application", namely, USSN 10/534,582. For completeness, applicants observe that 10/534,582, is a National filing of PCT/CA2003/001800, and that no prosecution has, as yet, taken place on this application.

Claims 3, 4, 6-10, 19 and 29-31 are pending in this application. Claims 30 and 31 were allowed. Claims 3, 4, 6-10, 19 and 29 were objected to, but would be allowable, if re-written in independent form. Claims 2, 5, 11-18 and 20-22 were rejected on the ground of non-statutory obviousness-type double patenting.

At the middle of page 2 of the Action, the Examiner rejected claims 2, 5, 11-18 and 20-22 on the grounds of non-statutory double patenting obviousness over US 6,677,351. The Examiner states that '351 "...claims nearly identical compounds except that Y is a carboxylic ester." At the bottom of page 3 of the Action the Examiner indicates that the rejection can be overcome by filing a terminal disclaimer.

Applicants respectfully disagree with the Examiner's analysis. Nonetheless, in order to advance the prosecution in this case, Applicants have cancelled claims 2, 5, 11-18 and 20-22. Applicants reserve the right to prosecute these claims in co-pending application 10/534,582, which is a National filing of PCT/CA2003/001800. Applicants respectfully submit that cancellation of claims 2, 5, 11-18 and 20-22 renders this issue moot.

At page 4 of the Action, the Examiner rejects claims 25, 26, 34 and 35 as failing to comply with the written description requirement. The Examiner states, in part:

Rejection of Claims 25-26 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement is maintained. Further, new Claims 34-35 was necessitated by applicants' amendment are rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement.

Applicants respectfully disagree for reasons of record. Nonetheless, in order to advance the prosecution in this case, Applicants have cancelled claims 25, 26, and 34-35. Applicants reserve the right to prosecute these claims in co-pending application 10/534,582. Applicants respectfully submit that cancellation of claims 25, 26 and 34-35 renders this issue moot.

At the bottom of page 6 of the Office Action, the Examiner rejected claims 25-26 and 32-36 under 35 USC 112, first paragraph. The Examiner stated, in part:

...because, the specification while enabling for a method of treating inflammation, especially allergic pulmonary inflammation, does not reasonably provide enablement for treating or preventing all the diseases included in the claims.

Applicants respectfully disagree. Nonetheless, in order to advance the prosecution in this case, Applicants have cancelled claims 25-26 and 32-36. Applicants reserve the right to prosecute these claims in co-pending application 10/534,582. Applicants respectfully submit that cancellation of claims 25-26 and 32-36 renders this issue moot.

At the bottom of page 8 of the Office Action, the Examiner states that Claims 3-4, 6-10, 19 and 29 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. In response, applicants have amended the claims as required by the Examiner, adding limitations expressly found in the claim upon which claims 3-4, 6-10, 19 and 29 depend. Thus, Formula (I) and the definitions for Ar, R, R<sup>1</sup>, R<sup>2</sup> and R<sup>3</sup>, from claim 2 are incorporated into claim 3. Similarly, Formula (I) and the definitions for R<sup>1</sup>, R<sup>2</sup> and R<sup>3</sup>, from claim 2 are incorporated into claim 4. The definitions for Ar, R, R<sup>1</sup>, and R<sup>3</sup>, from claim 18 are incorporated into claim 19 and Formula (I) is incorporated from claim 2. And, Formula (I) and the definitions for Ar, R, R<sup>1</sup>, R<sup>2</sup> and R<sup>3</sup>, from claim 2 are incorporated into claim 29.

Having addresses all of the outstanding objections and rejection, applicants respectfully submit that the application is now in condition for allowance, and passage thereto is earnestly requested. The Examiner is invited to contact the undersigned attorney at the telephone number provided below if such would advance the prosecution of this case.

Respectfully submitted,

By Curtis C. Panzer  
Curtis C. Panzer  
Reg. No. 33,752  
Attorney for Applicant

MERCK & CO., Inc.  
P.O. Box 2000  
Rahway, New Jersey 07065-0907  
(908) 594-3199

Date: September 28, 2006